

**14-14D. Cost Recovery Non-Judicial Agreements and Administrative Consent Orders
(1200 TN 350 14-14D)**


1. **AUTHORITY.** Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, including sections 104, 107 and 122(h), to enter into or exercise concurrence in non-judicial agreements or administrative orders on consent for the recovery of costs of response.
2. **TO WHOM DELEGATED.** Director, Hazardous Site Cleanup Division.
3. **LIMITATIONS.**
 - a. Delegatee should consult with the assistant administrator for the Office of Enforcement and Compliance Assurance consistent with the most recent version of the "OECA/OSRE CERCLA and RCRA/CWA/UST Roles Chart," or successor documents, as appropriate.
 - b. This authority is limited to sites where the total site costs of the United States did not exceed \$500,000, and were not expected to exceed \$500,000, excluding interest, and the settlement was not issued under the authority of the Attorney General.
 - c. The authority to enter into or exercise Agency concurrence in non-judicial agreements includes the authority to compromise or terminate debts. (see the memoranda cited in 5.g., 5.h., and 5.i., below.)
 - d. For settlements where the total response costs at the facility exceed \$500,000 (excluding interest) and the settlement compromises a claim of the United States, the delegatee must consult with the Assistant Administrator for Enforcement and Compliance Assurance or his/her designee before exercising any of the above authorities, unless such consultation is waived by memorandum.
 - e. This authority does not include de minimis settlements under CERCLA Section 122(g).
 - f. This authority does not include referral of cost recovery claims for resolution by arbitration of representation of the U.S. Environmental Protection Agency at arbitration hearings, conferences and negotiations.
 - g. The delegatee must obtain the concurrence of the regional counsel prior to exercising this authority.
4. **REDELEGATION AUTHORITY.**
 - a. This authority may be redelegated to the branch chief level and no further. This authority may not be redelegated without formal amendment.

- b. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically delegated.

5. ADDITIONAL REFERENCES.

- a. All applicable EPA guidance and directives.
- b. Authority to enter consent orders for administrative actions is delegated in agency Delegation 14-14C, "Administrative Actions through Consent Orders."
- c. Authority to refer cost recovery claims for resolution by arbitration and to represent the Agency at arbitration hearings, conferences and negotiations is delegated in agency Delegation 14-14F, "Cost Recovery Arbitration."
- d. Authority to enter into or exercise agency concurrence authority in de minimis settlements under CERCLA Section 122(g) is delegated in agency Delegation 14-14E, "De Minimis Settlements."
- e. As required by Section 122(h)(1) of CERCLA, if total response costs at the facility exceed \$500,000 (excluding interest), the agency may not compromise the claim without the prior written approval of the Attorney General.
6. **SUPERSESSION.** Delegations Manual, CERCLA, Regional Delegation 14-14-D. Cost Recovery Non-Judicial Agreements and Administrative Consent Orders, 1200 TN RIII-157, (November 7, 2003).

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